

Message Text

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ACTION ARA-10

INFO OCT-01 ISO-00 INT-05 SP-02 USIA-06 AID-05 EB-07

NSC-05 CIEP-01 TRSE-00 SS-15 STR-04 OMB-01 CEA-01 L-03

JUSE-00 SCA-01 SCS-03 CIAE-00 INR-07 NSAE-00 COME-00

FRB-03 /080 W

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P 092125Z AUG 76

FM AMEMBASSY CARACAS

TO SECSTATE WASHDC PRIORITY 4308

C O N F I D E N T I A L CARACAS 9630

EO 11652 GDS

TAGS: EMIN EINV US VE

SUBJ: CODSA DIFFICULTIES WITH GOV

REF: A STATE 51759, B CARACAS 3210

1. MR JOHN STEWART CALLED ON AMBASSADOR AUG 5 TO BRING HIM UP TO DATE ON SITUATION WITH REGARD TO CODSA(SEE REFS). HE SAID THAT FOLLOWING HIS MEETING WITH MINISTER OF MINES IN MARCH 1976(REF B) THE MINISTER APPOINTED A LEGAL COMMISSION TO INVESTIGATE CASE AND TO REVIEW OPTIONS WITH STEWART'S LAWYER. HIS LAWYER,STEWART SAID, DID MEET WITH COMMISSION, BUT NO RESOLUTION OF THE CASE HAS OCCURRED, ALTHOUGH HIS LAWYER FEELS COMMISSION IS SYMPATHETIC. UNDER VENEZUELAN LAW,STEWART HAS SIX MONTHS FROM THE DATE OF THE DECREES CANCELLING HIS CONCESSION TO FILE AN APPEAL IN THE COURTS, AND THAT DEADLINE EXPIRES AUG 12. IF HE DOES NOT TAKE LEGAL ACTION BY THAT TIME HE WILL LOSE RIGHT TO LEGAL REDRESS IN THIS CASE. STEWART SAID HE WAS AFRAID THE MINISTER WAS DELIBERATELY STALLING RECEIPT OF THE COMMISSION'S REPORT TO HIM OR ANY ACTION ON IT UNTIL AFTER AUG 12 SO THAT STEART'S OPEION REGARDING LEGAL ACTION WILL BE CLOSED OFF.

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2. STEWART APPEARED TO BE RELUCTANT TO INITIATE LEGAL ACTION A) BECAUSE HE SAYS IT WOULD BE EXPENSIVE B) BECAUSE HE FEELS THAT "NATIONALISTIC" COURTS WOULD BE AGAINST HIM; C) BECAUSE HIS LAWYER, WHO DEPENDS ON OTHER VENEZUELAN CLIENTS FOR A LIVELIHOOD, IS RELUCTANT TO PURSUE THE MATTER IN THE COURTS; AND D) BECAUSE HE SAYS MINOR FUNCTIONARIES IN THE MINISTRY HAVE THREATENED CRIMINAL ACTION AND POSSIBLY ARREST IF STEWART INITIATED A SUIT. STEWART ASKED THE AMBASSADOR HOW THE EMBASSY MIGHT HELP HIM.

3. THE AMBASSADOR SAID HE WOULD CALL THE MINISTER TO ASK ABOUT THE STATUS OF THE CASE, AND WHETHER THERE WAS ANY WAY TO EXTEND THE LEGAL DEADLINE WHILE THE COMMISSION CONTINUED ITS WORK SO THAT STEWART WOULD NOT LOSE HIS OPTION TO PROCEED IN THE COURTS. THE AMBASSADOR SAID THAT HE DID NOT THINK THAT STEWART COULD AFFORD TO LOSE HIS OPTION TO PROCEED LEGALLY, AND IF IT DID NOT APPEAR THAT GOOD OFFICES WERE GOING TO BE SUCCESSFUL BEFORE AUG 12 HE SHOULD KEEP HIS OPTIONS OPEN BY FILING SUIT SINCE HE SHOULD EXHAUST ALL LOCAL LEGAL REMEDIES AVAILABLE TO HIM.

4. FOLLOWING THIS CONVERSATION, THE AMBASSADOR SPOKE WITH THE MINISTER OF MINES ON AUG 6. MINISTER WAS FAMILIAR WITH THE CASE, AND ALLEGED THAT STEWART'S LAWYER HAD HAD ONLY ONE MEETING WITH HIS LEGAL ADVISOR WHOM MINISTER HAD DESIGANATED TO LOOK INTO THE CASE AND "NEVER RETURNED". THE MINISTER SAID HE EVEN WONDERED IF THE LAWYER WAS CORRECTLY INFORMING OR ADVISING STEWART OF THE CIRCUMSTANCES OF THE CASE. THE AMBASSADOR NOTED THAT STEWART FELT OBLIGED TO FILE A COURT CASE BUT WOULD PREFER NOT TO, AND ASKED IF THERE WAS NOT SOME WAY TO EXTEND THE LEGAL DEADLINE SO THAT DISCUSSION WITH THE MINISTRY'S LEGAL ADVISOR AND COMMISSION COULD PROCEED. THE MINISTER DID NOT ANSWER THAT DIRECTLY BUT SUGGESTED THAT STEWART'S LAWYER GET BACK IN TOUCH WITH THE LEGAL ADVISOR IMMEDIATELY AND HE IN TURN WOULD ASK HIM TO KEEP THE MINISTER INFORMED. THE AMBASSADOR SAID HE WOULD SO ADVISE STEWART AND AGAIN ASKED THE MINISTER TO EXPLORE WAYS TO EXTEND AUG 12 DEADLINE.

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5. FOLLOWING THE AMBASSADOR'S CONVERSATION WITH MINISTER HERNANDEZ, STEWART'S ATTORNEY, DR RAIMUNDO ARISTEGUIETA, WAS ADVISED TO CONTACT THE MINISTRY OF MINES LEGAL COMMISSION IMMEDIATELY. DR ARISTEGUIETA EXPRESSED SURPRISE AT MINISTER HERNANDEZ'S SUGGESTION AND CLAIMED THAT HE HAD BEEN IN CONSTANT CONTACT WITH THE LEGAL COMMISSION AND THAT HE HAD HAD MEETINGS WITH THEM AS RECENTLY AS THE WEEK OF AUG 2.

6. STEWART, WHO LEFT VENEZUELA ON AUG 7, IS REPORTED TO BE
IN NEW YORK AT PHONE NUMBER AREA CODE 212, 861-5912.
EMBASSY HAS ATTEMPTED TO REACH STEWART AT THIS NUMBER BUT HAS
BEEN UNSUCCESSFUL. EMBASSY WOULD APPRECIATE IF DEPT IS ABLE

TO REACH STEWART AT ABOVE NUMBER TO INFORM HIM CONTENTS PARA 4
THIS MESSAGE AND REPORT REACTION. STEWART MAY ALSO ATTEMPT
TO AROUSE SUPPORT IN US THRU CONGRESSMEN, PUBLICITY, ETC.
WHICH HE THREATENED TO DO. IN HIS CONVERSATION WITH THE
AMBASSADOR, HE THREATENED AS HE HAD EARLIER (REF A) TO INI-
Tiate ACTION IN US OR ELSEWHERE AGAINST VENEZUELAN ASSETS.
VAKY

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